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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,
Plaintiff,

v.

DEPUTY SHERIFF WHEATFALL, BADGE
#429; DEPUTY SHERIFF A. GARTH, BADGE
1340; UNNAMED POLICE OFFICER;
CENTRAL TOWING & TRANSPORT; COUNTY
OF ALAMEDA, SHERIFF'S DEPARTMENT;
CITY OF DUBLIN POLICE SERVICES;
UNNAMED DEFENDANTS
Defendant.

Case No.: C08-02139 JSW

DEFENDANT COUNTY OF ALAMEDA'S
RE- NOTICE OF MOTION TO DISMISS
PURSUANT TO FRCP 12(b)(6), OR
ALTERNATIVELY, MOTION FOR A
MORE DEFINITE STATEMENT AND
MOTION TO STRIKE

Date: August 29, 2008
Time: 9:00 am
Courtroom: 2

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on August 29, 2008 at 9:00am, in Courtroom 2, 17th
Floor of the United States District Court at 450 Golden Gate Avenue, San Francisco, CA,
Defendants COUNTY OF ALAMEDA, SGT. WHEATFALL # 429, SGT. A. GARTH, #1340,
ALAMEDA COUNTY SHERIFF'S OFFICE, and CITY OF DUBLIN POLICE SERVICES,
(hereinafter "County Defendants") will and hereby do move the Court for an order granting
dismissal of the Complaint pursuant to Federal Rule of Civil Procedure("FRCP") 12(b)(6), or

1 alternatively, requiring a more definite statement pursuant to FRCP 12(e) and motion to strike
2 pursuant to FRCP12(f).

3 This motion is made on the grounds that Plaintiff's Complaint lacks sufficient factual
4 allegations to support a claim for relief against the County Defendants under 42 U.S.C § 1983;
5 is vague, ambiguous, redundant, immaterial and unintelligible; and for all the reasons set forth
6 in the Memorandum of Points and Authorities accompanying the motion.

7 This Motion will is based on this Notice, the attached Memorandum of Points and
8 Authorities, Request for Judicial Notice, and the papers and records on file herein, and on such
9 oral and documentary evidence as may be presented at the hearing of the motion.

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11 DATED:

July 23, 2008

RICHARD E. WINNIE

County Counsel in and for the County of
Alameda, State of California

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14 By

[Signature]
DIANE C. GRAYDON

Deputy County Counsel

Attorneys for County Defendants
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DECLARATION OF SERVICE

William J. Whitsitt v. Sgt. Wheatfall, et al.

Case No. C08-02139-JSW

I, Jonna Thomas, declare that:

I am a citizen of the United States, over the age of 18 years and not a party to the within entitled action. I am employed at the Office of the County Counsel, County of Alameda, 1221 Oak Street, Suite 450, Oakland, California 94612-4296.

On July 23, 2008, I served the following documents:

1. DEFENDANT COUNTY OF ALAMEDA'S RE- NOTICE OF MOTION TO DISMISS PURSUANT TO FRCP 12(b)(6), OR ALTERNATIVELY, MOTION FOR A MORE DEFINITE STATEMENT AND MOTION TO STRIKE

on the following parties:

William J. Whitsitt
335 W. Clover Road
Tracy, CA 95376

☒ BY MAIL: I caused true and correct copies of the above document(s) to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) with postage thereon fully prepaid, and I further caused said envelope(s) to be placed in the United States mail, in the City of Oakland, California.

☐ BY FACSIMILE: I caused a copy (or copies) of such document(s) to be sent via facsimile transmission to the office(s) of the addressee(s).

☐ BY PERSONAL SERVICE: I caused true and correct copy (or copies) of the above document(s) to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) and I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Oakland, California on July 23, 2008.


JONNA M. THOMAS